

**MINUTES OF THE MILLVILLE
TOWN COUNCIL WORKSHOP
August 28, 2018 @ 7:00 PM**

In attendance were Mayor Bob Gordon, Deputy Mayor Steve Maneri, Secretary Peter Michel, Council Member Ronald Belinko; Town Manager Debbie Botchie, and GMB Representative Andrew Lyons Jr. Treasurer Susan Brewer and Town Clerk Matt Amerling were absent.

1. CALL TO ORDER

Mayor Gordon called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Gordon led the pledge of allegiance.

3. ROLL CALL

All Council members are present except for Treasurer Susan Brewer.

4. NEW BUSINESS

- A.** Discuss and possible vote on revision by MBTS to Village 3 sewer extension.

Synopsis: The applicant is requesting a revision to its sewer extension from the manhole connecting Sea Star Village, Section 3, and Village 1, extending through Village 8 to Route 17 and north to the Beebe site, which was approved at the April 3, 2018, Town Council Workshop meeting. The revision would be to only partially run through future Village 8, then turn right and run through Grimes property easement then up Route 17 in DelDOT right-of-way.

Mr. Andrew Lyons, Jr., of GMB, stated this is a concept plan which has been submitted from the developer to the County, and MBTS has went through the sequence of events approved at the April 3 Workshop meeting; but have changed the concept plan with the County so the extension will go out of the wetland area and into the Grimes property, which is in County jurisdiction. Mr. Lyons stated with the new sequence of events, MBTS will still have to get all proper permits before starting, but the only major change is where MBTS connects into Route 17.

Mr. Al Ruble, of Millville by the Sea (MBTS), stated the reason this came about is because, after the April 3 meeting, the area still hadn't come back with full foliage yet and, at the end of April, Mr. Ruble did a walk-through of the area, and it looked as if the wetland area was larger than when MBTS had delineated it back in 2005/2006. Mr. Ruble stated he still could have gotten the sewer and water through the area with minimal disturbance and within a reasonable amount of area, but the problem concerning him was if MBTS came through with a full fifty (50)-foot right-of-way (ROW) road which was going to head out to Route 17, the road would do some serious damage. Mr. Ruble further stated, looking at some options, MBTS talked about coming along the easement with Delmarva Power and Lighting (DP&L) and/or having an easement come back to MBTS's property through the Grimes' property. Mr. Ruble stated he knows the Grimes family, who have always been very cooperative, and

MBTS has had an agreement with the Grimes family when buying the land was when the water and sewer got nearer, MBTS would provide laterals for the Grimes to connect to sewer and water. Mr. Ruble stated after meeting with the Grimes family, they are totally in support of MBTS coming through the proposed area; and LDC Advisors agreed there was no benefit and made no sense in disturbing the wetlands. Mr. Ruble stated the decision was made to go to County and see if MBTS could run the pipe the way being presented to Council tonight, and all comments have been addressed; so Mr. Ruble is expecting another two (2) weeks until having a final approval from the County for this route as presented. Mr. Ruble stated after Council approves, MBTS has to get Delaware Department of Natural Resources and Environmental Control (DNREC) approval before going back to County, at which point County issues an inspection, bonding and whatever else needed. Mr. Ruble stated he thinks it may be another sixty (60) days still before MBTS has approval from the County and DNREC. Mr. Ruble stated MBTS wanted to show Council this because even though MBTS is doing exactly what MBTS said it was going to do from day one, the difference is now making a right-hand turn through the Grimes property, which is also County property, and when MBTS gets up to Route 17, MBTS will be staying on DelDOT ROW property. Mayor Bob Gordon stated with MBTS still going across Route 17, how deep is MBTS going into the ground at that point? Mr. Ruble stated the sewer all the way under offsite one is complete; and manhole eleven (11), which sits around the area, is about fifteen (15) feet, two (2) inches deep. Mr. Ruble stated when MBTS crosses the Beaver Dam ditch, all the way over to Beebe, when MBTS gets over to the manhole on Route 17, before changing to a ten (10)-inch, the eighteen (18)-inch sewer is probably going to be at around ten (10) feet deep. Mr. Ruble further stated from Beebe, there will be a ten (10)-inch running down to the manhole, and there will be stub coming out of the manhole, which will be a fifteen (15)-inch, which will pick up all the rest of MBTS lands with gravity sewer. Mayor Gordon asked if the 15-inch will be on the east side of Route 17. Mr. Ruble stated yes, and the County made the change to the eighteen (18)-inch, which is why it's not a twenty-four (24)-inch that MBTS originally had.

Deputy Mayor Steve Maneri asked how deep MBTS is going under Beaver Dam. Mr. Ruble stated MBTS is a little under fifteen (15)-feet deep, which means, with an eighteen (18)-inch pipe, thirty (30)-inch casing, MBTS will have a clearance from the bottom of the ditch to the top of the thirty (30)-inch casing, of about forty (40) inches. Mr. Ruble stated MBTS is going to jack and bore this piping, and MBTS already has probably nine (9) to eleven (11) other tax ditches MBTS has already run sewer under in the MBTS development; and MBTS opened a lot of those to put these sewers in. Mr. Ruble stated with here being the Beaver Dam ditch, since MBTS would have to directional bore the water line, it made sense to jack and bore the 18-inch pipe. Mr. Maneri stated he wanted to make sure if the ditch ever does get silted up and the ditch has to be re-cut, there will be enough there to do so. Mr. Ruble stated yes, there will be more than enough, and County will go to DNREC anyway to get approval and get such a consideration. Mr. Ruble stated MBTS is about thirty (30) to sixty (60) days out from having permits in hand, contractors are standing by, and Beebe would like MBTS to have the utilities here by the early part of next year. Mr. Ruble stated with this plus the Roxana Road/Route 17 improvement, which MBTS is responsible for and not Beebe, Mr. Ruble doesn't see it all getting done until the middle of next year, which is fine because Beebe doesn't expect to open the facilities until beginning of 2020. Mr. Lyons stated a request to

have MBTS forward copies of any approvals to the Town once MBTS receives them. Mr. Ruble stated that would be fine.

Mr. Paul DuCott, of Huntington Street, asked, on the plan where it says "Sea Star 3," Mr. DuCott noticed they've started to cut the road in so is that where the work will start? Mr. Ruble stated they only have to go back so many feet on this and then they'll stop; and MBTS has left the sewer with an invert of about eleven (11) feet, two (2) inches, which is the tap point, to run the sewer for the sixty-five (65) homes MBTS still has to build. Mr. Ruble stated MBTS had originally hoped to run the road out to Route 17, but will instead cul-de-sac it before the wetlands and put the crossing in to tie in with Sea Star, and use some kind of box culvert in crossing it. Mr. Maneri stated he thought there had to be connectivity in these plans, but there's a cul-de-sac. Mr. Ruble stated MBTS does have two (2) connectivity outlets, but the cul-de-sac is legal and approved by the Fire Marshal. Mr. Ruble stated the cul-de-sac is really the only thing you can do because MBTS is fixed with Sea Star dictating the drive and there are fixed entrances, plus there's no other land in the area to put a 50-foot ROW through on. Mr. Maneri asked what the name will be for the village. Mr. Ruble stated it's currently called Village 8 because there is still a ten (10)-year build-out. Mr. Ruble stated, as a developer, MBTS is going through a tremendous expense to get these utilities through to Beebe and the amount of money MBTS is spending to do so is with no chance of a return for a long time. Mr. Ruble further stated MBTS is doing this because it's the right thing to do and now there is a niche, so the only way out is if MBTS adds the second entrance which would take you off Summerwind, which MBTS thinks is good because it's a main collector road, whereas, coming through Sea Star, you're going onto a sub-collector. Town Manager Debbie Botchie stated it was approved in the final schematic master plan. Mr. Lyons stated there is a cul-de-sac in the original but MBTS just moved it from one end of the street to the other end.

Council Member Ronald Belinko motioned to move forward with the design plans for the revision by MBTS to Village 3 sewer extension. Mr. Maneri seconded the motion. Motion carried 4-0.

B. Discuss and review Draft Ordinance 19-04.

Synopsis: Ordinance 19-04 will amend the Town Code at Chapters 1, 58, 72, 80, 90, 97, 111, 125, 132, and 155, related to violations and penalties.

Town Manager Debbie Botchie stated the Town ran into a couple of incidents in the past where the Town had to expend a lot of the taxpayers' monies on people's violations because the Town didn't have anything written which was solid. Ms. Botchie stated the Town has ten (10) chapters which this ordinance will amend, regarding violations and penalties. Ms. Botchie stated in the ten (10) chapters, there are a lot of inconsistencies regarding what the fine could be upon conviction. Ms. Botchie stated the Town also had no real leverage as far as collecting the fees, but this ordinance will state, "Unless the provision in question specifically provides for other penalties, any person who violates a provision of a chapter of the Code shall be fined \$99 for the first offense and \$250 for each subsequent, or continuing, offense. Each day that a violation continues shall be deemed a separate violation." Ms. Botchie stated the meat of this with Code enforcement and general procedures will allow the Town to notice

the deficiency to the violator/property owner, as well as, depending on the violation, giving a particular amount of days with which the violation has to be corrected and if they do not respond within the five (5) days or whatever the case may be, the violator gets fined \$99 and so on. Ms. Botchie stated if the violator doesn't correct the violation, they get fined \$250, and if that is ignored, the Town takes them to court. Ms. Botchie further stated if the process goes that far, on page three (3), there is the subsection of "Expenses incurred by Town," which states, "Any person in violation shall become liable to the Town for any expense, loss or damage suffered by the Town by reason of such violation, including, but not limited to, the Town's engineers' fees, the Town's attorneys' fees and costs of prosecution." Ms. Botchie stated this ordinance goes into each chapter which will be amended with the necessary language, and Ms. Botchie thinks this is something the Town has needed in quite some time as it puts out all the consistency needed.

Deputy Mayor Maneri asked if the \$250 can be the fine for the day after not paying the first \$99 fine. Ms. Botchie stated the Town can make that process the rule. Mayor Gordon stated the Town has to make sure every violation is carried out the same way, with a certain number of days to comply. Ms. Botchie stated she didn't put the number of days in the ordinance because the Town would have to have a public hearing to change it, but Ms. Botchie thinks the amount of days should be put on the violation notice and after speaking with Town Solicitor Seth Thompson, he agrees. Mayor Gordon stated one of the problems the Town has now is with property owners not correcting a violation, particularly with grass height, which is all summer long. Ms. Botchie stated the violators snub the Town and the Town is landlocked until the violator owes the Town money, falling under the "clean hands" policy. Mayor Gordon stated this ordinance takes care of follow-up with these issues, and thinks this should go before public hearing.

Mr. Walter Bartus, of Huntington Street, stated he's read the Code and thinks there's one piece which relates to this ordinance, stating if there is a violation of grass height, there is no need in the same calendar year to advise the violator about the violation; and as soon as the Code official notifies the violator once, it is done and the violator doesn't have to be notified a second time in the same year. Ms. Botchie stated that is not in this ordinance, but in the property maintenance ordinance (chapter 111-1B-3). Mr. Bartus stated he knows the Town gets tired of telling the same guy to correct this and it's the violator's responsibility to pay the fine(s) and follow up rather than put the onus on the Town. Ms. Botchie stated the section Mr. Bartus is referencing states "the Town may cut, destroy and remove all unregulated growth," but this section of the ordinance has nothing to do with this particular ordinance under current review. Ms. Botchie stated this ordinance has to do with monies, but the ordinance Mr. Bartus is referencing has to do with if the Town deems to say "we gave you notice, Mr. Homeowner, to cut your grass, you didn't cut it, so I'm going to cut it for you, I told you once and I'm not telling you anymore"; Mr. Bartus' ordinance states the Town may take that action, not that the Town shall take that action. Ms. Botchie stated she met with Mr. Maneri and Mr. Maneri would like to see the word "shall" there instead of "may." Ms. Botchie stated she told Mr. Maneri she would notify Mr. Thompson because Ms. Botchie is not sure of the legality of just going onto someone's property to keep cutting without giving notice.

C. Discuss and review Draft Ordinance 19-06 (formerly 19-04); an Ordinance to amend the

Town of Millville Code at Chapter 111 entitled Property Maintenance.

Synopsis: If approved, Ordinance 19-06 would have additional regulations regarding garbage and dumpsters.

Ms. Botchie stated since some citizens have brought the Town's attention some issues with trash, Ms. Botchie went back to the lawn maintenance ordinance and cleaned it up as well as adding definitions and some additions, like on page two (2), numbers one (1) and two (2), where it talks about weeds abutting sidewalks. Ms. Botchie stated after talking with Mr. Maneri, he thinks language should be added to include walking trails and paths, and Ms. Botchie agrees with Mr. Maneri because the Town has had to talk to some communities which are letting grass grow over their walking trails. Mayor Gordon asked, regarding item 111-2-B2, shouldn't the time limit be five (5) days rather than ten (10) days, because ten (10) days, plus with the mail, the Town would be looking at almost two (2) weeks to make a reply, but five (5) calendar days should be adequate. Mayor Gordon stated he's ridden along Route 26 through some communities where after a heavy rain, plus with 10 days, he's looking at sixteen (16) to twenty-four (24) inches. Mr. Maneri and Council Member Peter Michel agreed with 5 days. Council Member Ronald Belinko stated he is thinking of the property owners who are away on vacation for several weeks, or those who may be very ill, and they return home to a hefty fine. Mayor Gordon stated the Town could try and come up with a special case amendment. Ms. Botchie stated the Town does take such considerations because when people are willing to work with you, the Town will work with them; however, those people who snub the Town are the ones at which this ordinance is aimed, but the Town does work with people. Mayor Gordon stated it's cheaper to cut the grass when it's eight (8) inches rather than two (2) feet tall.

Ms. Botchie stated what has also changed in this ordinance is the trash containers and dumpsters – those both behind businesses and in the Town's communities. Ms. Botchie stated Bishop's Landing is the only community which has a community dumpster, the others are dumpsters for construction waste. Ms. Botchie stated she notified the developers and builders to ask to please keep their sites clean, and received quite a few responses asking for the Town to please have the residents stop putting their trash in the construction dumpsters, and that has not stopped happening yet as developers and builders still find dog poop, seafood, chairs, lawn mowers, mattresses, etc. Ms. Botchie stated this ordinance has the addition of definitions as well as a new item in section D-2, trash containers and dumpsters, which reads: "When a dumpster or trash container is filled to capacity, it must be emptied within 24 hours of that occurrence. The dumpster shall be deemed to be filled to capacity when its contents extend above the top edge of any wall of the dumpster or beyond the edges of any door, hatch or other opening in the roof or any wall of the dumpster. No overflow of any material shall be permitted from the dumpster or trash container, nor shall any accumulation of any material next to the dumpster or trash container be permitted." Ms. Botchie stated this ordinance is for residents, businesses, and communities which have overflow trash. Ms. Botchie stated there is a community where trash is left outside of the dumpster, the rain, winds, or vermin can get into, knock over, or blow out the trash into a neighbor's yard. Ms. Botchie stated a person will be fined if the trash is outside the bin or dumpster. An audience member asked if a work crew in a community dropped their lunch trash on the ground, would that count as a violation in this

ordinance? Ms. Botchie stated no, this ordinance is strictly about dumpsters and trash containers. Mayor Gordon stated he's seen people use the dumpsters near his house and it's very difficult to police who did what and when, and the police have bigger issues to deal with. Ms. Botchie stated this part of the ordinance will not be a simple thing to monitor. Mayor Gordon stated this ordinance may incentivize business or building owners to have more frequent trash pick-ups than less so they may avoid a hefty fine. Ms. Botchie stated the previous ordinance just reviewed will modify this ordinance as well in terms of a big fine, but the onus falls on the business and building owners to either get more dumpsters or get more frequent trash pick-ups. Ms. Botchie stated the residents will not be happy when they get fined, and she realizes residents in communities get a lot of family visiting during this time of year, but residents', visitors' and renters' trash will not be able to sit on the ground. Mayor Gordon stated this ordinance also puts more onus on the person who owns or rents the dumpster to check it and be responsible about making sure dumpsters and trash containers are emptied. Mr. Bartus asked if the Town could put up on its website or in the newspaper, people or companies which violate the trash ordinance. Mayor Gordon stated Hocker's Grocery store used to do that on their sign with people who bounced checks but the practice was stopped because it became a legal issue. Ms. Botchie stated she doesn't think government should get in the position of "calling people out" in a newspaper or on a website.

Mr. Maneri stated on page four (4), items D and E, shouldn't the Town add walking trails and paths as well? Ms. Botchie stated yes. Mayor Gordon stated the reference to ten (10) days as a time limit should be changed to five (5) days throughout the entire ordinance.

5. CITIZENS' PRIVILEGE

Mr. Walter Bartus, of Huntington Street, stated as the Town knows, some of the residents of Millville by the Sea (MBTS) have had difficulties with their developer, Millville Town Center LLC, and the Master Community Association. Mr. Bartus stated he spoke today with the newspapers – the *Wave* and the *Coastal Point* – and advised the newspapers of the complaint the residents have filed against those entities. Mr. Bartus stated the *Coastal Point* asked for a full copy of the complaint, which he provided to them, and it was filed in Chancery Court on July 23, 2018, but with the 30-day extension request, the entities of Millville Town Center, Millville Seaside Properties, MBTS Master Community Association, Charles Ellison, Pamela Wiles, and Craig Havenner are not due to have a reply out until September 15, 2018. Mr. Bartus stated the reason for naming those individual people is because they had signed the original documents and were on MBTS's board, severing the specific residents from the rest of the community, which has now put the residents in this predicament. Mr. Bartus stated the residents are hopeful "cooler heads will prevail" and people will come to the table with good faith bargaining, which the residents have not yet had. Ms. Botchie stated she hopes Mr. Bartus made it clear this lawsuit is not between the Town and residents or the developer. Mr. Bartus stated yes, he specifically stated the Town wasn't involved.

6. ANNOUNCEMENT OF NEXT MEETING – TOWN COUNCIL MTG., SEPTEMBER 11, 2018

7. ADJOURNMENT

Mr. Michel motioned to adjourn at 8:12 p.m. Mayor Gordon seconded the motion. Motion carried 4-0.

Respectfully submitted,
Matt Amerling, Town Clerk